

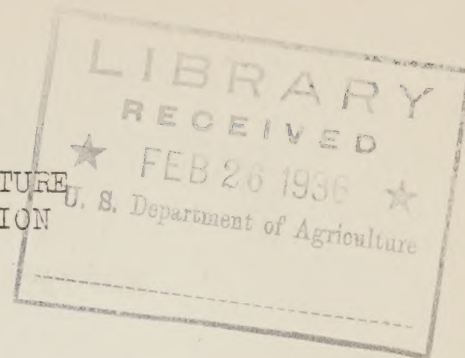
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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION



ORDER SERIES--ORDER No. 4

ORDER REGULATING THE HANDLING OF
MILK IN THE GREATER BOSTON, MASS., MARKETING AREA

Issued by the Secretary of Agriculture February 7, 1936
Effective 12:01 a.m., E.S.T., February 9, 1936

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ORDER
REGULATING THE HANDLING OF MILK IN THE GREATER BOSTON,
MASSACHUSETTS, MARKETING AREA

WHEREAS, by Section 8b of Title I of the Agricultural Adjustment Act, approved May 12, 1933, as amended, hereinafter called the act, the Secretary of Agriculture is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs or affects interstate or foreign commerce in such commodity or product thereof; and

WHEREAS, by section 8c, (1) of the act the Secretary of Agriculture is empowered to issue orders applicable to processors, associations of producers and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs or affects interstate or foreign commerce in such commodity or product thereof; and

WHEREAS, the Secretary of Agriculture, having reason to believe that the issuance of a marketing agreement and order with respect to the handling of milk in the Greater Boston, Massachusetts, Marketing Area would tend to effectuate the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as would reestablish prices of milk to producers of milk in said area at a level that would give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of milk in the base period, August 1919 - July 1929, gave, on the 30th day of November 1935, notice of a hearing, which was held on the tenth and eleventh days of December 1935 at St. Johnsbury, Vermont, and on the twelfth day of December 1935 at Boston, Massachusetts, on a proposed marketing agreement and a proposed order regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area, at which times and places all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

WHEREAS, after such hearing and after the tentative approval by the Secretary of a marketing agreement on the 18th day of January 1936, handlers of more than 50 per centum of the volume of milk, covered by this order, which is marketed within the Greater Boston, Massachusetts, Marketing Area, refused or failed to sign such marketing agreement relating to milk; and

WHEREAS, the Secretary determined, on the fifth day of February 1936, said determination being approved by the President of the United

States on the sixth day of February 1936, that said refusal or failure tends to prevent the effectuation of the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as would reestablish prices of milk to producers of milk in said area at a level that would give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such milk in the base period, August 1919 - July 1929, and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area and is approved or favored by over seventy-five percent of the producers who, during the month of November 1935, said month being determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the Greater Boston, Massachusetts, Marketing Area; and

WHEREAS, on the 25th day of January 1936, the Secretary found and proclaimed that the purchasing power of milk handled in the Greater Boston, Massachusetts, Marketing Area could not be satisfactorily determined from available statistics of the United States Department of Agriculture during the base period August 1909 to July 1914, but that the purchasing power of said milk could be satisfactorily determined from available statistics of the Department of Agriculture during the period August 1919 - July 1929, and, on the same date, found and proclaimed the period August 1919 - July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Greater Boston, Massachusetts, Marketing Area; and

WHEREAS, the Secretary finds, upon the evidence introduced at the aforementioned hearings:

1. That in 1934, 90.8 percent of the total volume of milk sold in the Greater Boston, Massachusetts, Marketing Area, originated in states other than Massachusetts and entered into the current of interstate commerce; that the milk originating in the State of Massachusetts is inextricably intermingled with that milk which is in the current of interstate commerce, and in such a manner that it is impossible to regulate that milk originating in states other than Massachusetts without regulating that milk which originates in the State of Massachusetts and which enters the current of interstate commerce; and that the handling of milk in the Greater Boston, Massachusetts, Marketing Area is in the current of interstate commerce, or directly burdens, obstructs or affects interstate commerce.

2. That the classification of milk into two classes follows a custom of long-standing in the market and is an economically justifiable method of classifying milk;

3. That the prices received by producers for milk sold in the marketing area were, for a long time prior to said hearings, at a level that gave such milk a purchasing power with respect to articles that producers buy considerably below the purchasing power in the base period; that the prices established in this order will, over a period of time, tend to give such milk a purchasing power with respect to articles that producers buy

equivalent to the purchasing power of such milk in the base period; that the establishment of such prices does not have for its purpose the maintenance of prices to producers above the level which is declared in the act to be the policy of Congress to establish; that the differential in prices to associations of producers, and producers, is justified as a reasonable allowance for services actually performed by associations of producers; that the differential in price between milk delivered from producers' farms to handlers' plants located not more than forty miles from the State House in Boston and to plants located more than forty miles from the State House in Boston is a reasonable allowance for the extra handling costs incurred by handlers operating country station plants; and that the method provided for determining the class II price is a method which bears a reasonable relationship to the price of cream in the above market;

4. That the determination of uniform prices to producers and the payment of such prices through a market-wide equalization pool founded upon a base-rating plan is a fair and reasonable method of distributing to producers the proceeds of sales to handlers; that the country station, transportation, butter fat and other differentials are proper differentials to be used in calculating such prices; that the payment of class I prices for the bases of producers whose farms are within forty miles of Boston is a proper recognition of the economic position of such producers, due to the greater availability of their milk for class I use; and that the method of calculating the bases of all producers is a fair and reasonable method;

5. That the Greater Boston, Massachusetts, Marketing Area, as defined in the order, is the natural marketing area within which Boston handlers distribute the aforesaid milk;

6. That the market administrator is a proper agency to administer the order and that the powers granted to, and duties specified for, such market administrator in the order are necessary for the administration of the terms and provisions of the order;

7. That the deduction of a sum not exceeding 2¢ per hundredweight is a proper deduction as each handler's pro rata share of the expenses of the administration hereof;

8. That the expenses which the market administrator will necessarily incur during the twelve-month period immediately following the effective date of this order, for the maintenance and functioning of such market administrator, will be approximately \$135,000;

9. That the reports required of handlers by this order are reasonably necessary for the proper administration of the order;

10. That the deduction of 5¢ per hundredweight from payments made to producers, except those producers for whom a duly qualified association is actually performing services, is a proper deduction

for such services rendered by the market administrator for market information to such producer, and for verification of weights, sampling and testing of milk;

11. That the furnishing of security by handlers to the market administrator for payments to be made by each handler is necessary in order to insure the payment to producers of the minimum price specified in this order;

12. That the order regulates the handling of milk in the same manner as, and is applicable only to handlers specified in the marketing agreement mentioned above, upon which hearings have been held;

13. That all the remaining provisions of this order are necessary to effectuate the other provisions of the order; and

14. That the issuance of this order and all of the terms and conditions hereof will tend to effectuate the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as will reestablish prices of milk to producers of milk in said area at a level that will give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of milk in the base period, August 1919 - July 1929;

NOW, THEREFORE, the Secretary of Agriculture, pursuant to the authority vested in him by the act, hereby orders that such handling of milk in the Greater Boston, Massachusetts, Marketing Area as is in the current of interstate or foreign commerce, or which directly burdens, obstructs or affects interstate or foreign commerce shall, from the effective date hereof, be in conformity to, and in compliance with, the following terms and conditions:

ARTICLE I -- DEFINITIONS

Section 1. Terms. The following terms shall have the following meanings:

1. "Act" means the Agricultural Adjustment Act approved May 12, 1933, as amended.

2. "Secretary" means the Secretary of Agriculture of the United States.

3. "Greater Boston, Massachusetts, Marketing Area", hereinafter called the "Marketing Area", means the territory included within the boundary lines of the cities and towns of Arlington, Belmont, Beverly, Boston, Braintree, Brookline, Cambridge, Chelsea, Dedham, Everett, Lexington, Lynn, Malden, Marblehead, Medford, Melrose, Milton, Nahant, Needham, Newton, Peabody, Quincy, Reading, Revere, Salem, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weymouth, Winchester, Winthrop and Woburn, Massachusetts.

4. "Person" means any individual, partnership, corporation, association and any other business unit.

5. "Producer" means any person, irrespective of whether any such person is also a handler, who produces milk in conformity with the health regulations which are applicable to milk which is sold for consumption as milk in the Marketing Area.

6. "Handler" means any person, irrespective of whether such person is a producer or an association of producers, wherever located or operating, who engages in such handling of milk, which is sold as milk or cream in the Marketing Area, as is in the current of interstate or foreign commerce or which directly burdens, obstructs or affects interstate or foreign commerce in milk and its products.

7. "Market Administrator" means the person designated pursuant to article II as the agency for the administration hereof.

8. "Delivery period" means the current marketing period from the first to, and including, the fifteenth day of each month, and from the sixteenth to, and including, the last day of each month.

9. "Base" means the quantity of milk calculated for each producer pursuant to section 4 of article VII.

ARTICLE II -- MARKET ADMINISTRATOR

Section 1. Selection, Removal and Bond. The Market Administrator shall be selected by the Secretary and shall be subject to removal by him at any time. The Market Administrator shall, within forty-five (45) days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

Sec. 2. Compensation. The Market Administrator shall be entitled to such reasonable compensation as may be determined by the Secretary.

Sec. 3. Powers. The Market Administrator shall have power:

1. To administer the terms and provisions hereof;
2. To receive, investigate and report to the Secretary complaints of violations of the terms and provisions hereof.

Sec. 4. Duties. The Market Administrator, in addition to the duties hereinafter described, shall:

1. Keep such books and records as will clearly reflect the transactions provided for herein;
2. Submit his books and records to examination by the Secretary at any and all times;

3. Furnish such information and such verified reports as the Secretary may request;

4. Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the Market Administrator;

5. Publicly disclose to handlers and producers; unless otherwise directed by the Secretary, the name of any person who, within fifteen days after the date upon which he is required to perform such acts, has not (a) furnished security pursuant to article XI, (b) made reports pursuant to article V or (c) made payments pursuant to article VIII;

6. Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof; and

7. Pay, out of the funds provided by article X, (a) the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the Market Administrator, (b) his own compensation and (c) all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties.

Sec. 5. Responsibility. The Market Administrator, in his capacity as such, shall not be held responsible in any way whatsoever to any handler, or to any other person, for errors in judgment, for mistakes or for other acts either of commission or omission, except for his own willful misfeasance, malfeasance or dishonesty.

ARTICLE III -- CLASSIFICATION OF MILK

Section 1. Sales and Use Classification. Milk purchased or handled by handlers shall be classified as follows:

1. All milk sold or distributed as milk, chocolate milk or flavored milk and all milk not specifically accounted for as Class II milk shall be Class I milk; and

2. Milk specifically accounted for (a) as being sold, distributed or disposed of other than as milk, chocolate milk or flavored milk and (b) as actual plant shrinkage within reasonable limits shall be Class II milk.

Sec. 2. Inter-Handler Sales. Milk, including skim milk, sold by a handler to another handler shall be presumed to be Class I milk; provided, that, if such selling handler, on or before the date fixed for filing reports pursuant to article V, shall furnish proof satisfactory to the Market Administrator that such milk, or part thereof, has been sold or used by the purchasing handler other than as Class I milk, then and in that event, such milk, or part thereof, shall be classified as Class II milk.

Sec. 3. Delivery of Class I Milk. The milk which was sold or distributed by each handler as Class I milk shall be presumed to have been that milk which was delivered to such handler at plants within and nearest to the Marketing Area; provided, that, if such handler can show that

such presumption will result in an unreasonable allocation as to Class I milk actually delivered to him outside the Marketing Area, the Market Administrator may determine and make public a different basis of allocation than would otherwise be allowed by this section.

ARTICLE IV -- MINIMUM PRICES

Section 1. Class I Prices to Associations of Producers. Each handler shall pay any association of producers for Class I milk containing 3.7 percent butterfat, subject to the butterfat differential set forth in section 3 of article VIII, not less than the following prices:

1. \$3.42 per hundredweight for such milk delivered from the plant of such association to such handler's plant located not more than forty (40) miles from the State House in Boston; and

2. \$3.37 per hundredweight for such milk delivered from the plant of such association to such handler at a railroad delivery point not more than forty (40) miles from the State House in Boston.

Sec. 2. Class I Prices to Producers. Each handler shall pay producers, in the manner set forth in article VIII, for Class I milk delivered by them, not less than the following prices:

1. \$3.30 per hundredweight for such milk delivered from producers' farms to such handler's plant located not more than forty (40) miles from the State House in Boston;

2. \$3.09 per hundredweight for such milk delivered from producers' farms to such handler's plant located more than forty (40) miles from the State House in Boston, less an amount per hundredweight equal to the freight from the railroad shipping point for such handler's plant to such handler's railroad delivery point in the Marketing Area. Such freight shall be calculated according to applicable rail tariffs for the transportation in carload lots of milk in forty-quart cans and each such can shall be considered to contain 85 pounds of milk.

Sec. 3. Class II Prices. Each handler shall pay producers, in the manner set forth in article VIII, for Class II milk not less than the following prices per hundredweight:

1. In the case of such milk delivered to a handler's plant located not more than forty (40) miles from the State House in Boston, a price which the Market Administrator shall calculate as follows: Divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, multiply the result by 3.7, add 10 cents and subtract 23 cents; and

2. In the case of such milk delivered to a handler's plant located more than forty (40) miles from the State House in Boston, the price calculated by the Market Administrator, pursuant to paragraph 1 of this section, minus six (6) cents.

Sec. 4. Sales Outside the Marketing Area. The price to be paid by each handler to associations of producers or to producers, in the manner set forth in article VIII, for milk utilized as Class I milk outside the Marketing Area, shall be the price applicable pursuant to sections 1 and 2 of this article adjusted by (a) the difference between such applicable price and the price ascertained by the Market Administrator as the prevailing price paid by processors for milk of equivalent use in the market where such Class I milk is utilized and (b) the difference between the freight allowance, if any, set forth in paragraph 2 of section 2 of this article and an amount equal to the carload freight rate approved by the Interstate Commerce Commission for movement of milk in 40-quart cans from the shipping point for the plant where such Class I milk is received from producers to the railroad delivery point serving the market where such Class I milk is sold; provided, that (1) if the market where such Class I milk is utilized is less than ten (10) miles from the plant where such Class I milk is received from producers, the railroad shipping point for such plant shall be presumed to be the railroad delivery point serving such market, and (2) if the market where such Class I milk is utilized is located in Barnstable, Plymouth, Norfolk, Dukes and Nantucket counties, Massachusetts, such handler's railroad delivery point in the Marketing Area shall be considered to be the railroad delivery point serving such market.

Sec. 5. Publication of Class II Price. On or before the fifth day after the end of each delivery period, the Market Administrator shall publicly announce the Class II price in effect for such delivery period.

ARTICLE V -- REPORTS OF HANDLERS

Section 1. Periodic Reports. On or before the eighth day after the end of each delivery period, each handler shall, except as set forth in section 1 of article VI, with respect to milk or cream which was, during such delivery period, (a) received from producers, (b) received from handlers or (c) produced by such handler, report to the Market Administrator, in the detail and form prescribed by the Market Administrator, as follows:

1. The receipts at each plant from producers who are not handlers and the total quantity of such receipts which represents milk delivered by producers in excess of their individual bases;
2. The receipts at each plant from any other handler, including any handler who is also a producer;
3. The quantity, if any, produced by such handler; and
4. The respective quantities of milk which were sold, distributed or used, including sales to other handlers, for the purpose of classification pursuant to article III.

Sec. 2. Reports as to Producers. Each handler shall report to the Market Administrator:

1. Within ten (10) days after the Market Administrator's request

with respect to any producer for whom such information is not in the files of the Market Administrator, and with respect to a period or periods of time designated by the Market Administrator, (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered and (d) the number of days upon which deliveries were made; and.

2. As soon as possible after first receiving milk from any producer: (a) the name and address of such producer, (b) the date upon which such milk was first received, (c) the plant at which such producer delivered milk and (d) the plant, if known, at which such producer delivered milk immediately prior to the beginning of delivery to such handler.

Sec. 3. Reports of Payments to Producers. Each handler shall submit to the Market Administrator within thirty (30) days after the end of each delivery period his producer payroll for such delivery period which shall show for each producer: (a) the total delivery of milk with the average butterfat test thereof, (b) the portion of such delivery which was in excess of the base of such producer and (c) the net amount of such producer's payment, with the prices, deductions and charges involved.

Sec. 4. Outside Cream Purchases. Each handler shall report, as requested by the Market Administrator, his purchases, if any, of bottling quality cream from handlers who receive no milk from producers, showing the quantity and the source of each such purchase and the cost thereof at Boston.

Sec. 5. Verification of Reports. In order that the Market Administrator may submit verified reports to the Secretary pursuant to paragraph 3 of section 4 of article II, each handler shall permit the Market Administrator or his agent, during the usual hours of business, to (a) verify the information contained in reports submitted in accordance with this article and (b) weigh, sample and test milk for butterfat.

ARTICLE VI -- HANDLERS WHO ARE ALSO PRODUCERS

Section 1. Application of Provisions. No provision hereof shall apply to a handler who is also a producer and who purchases no milk from producers or an association of producers, except that such handler shall make reports to the Market Administrator at such time and in such manner as the Market Administrator may request.

Sec. 2. Milk Purchased from Producers. In the case of a handler who is also a producer and who purchases milk from producers or an association of producers, the Market Administrator shall, in the computations set forth in article VII, first exclude the milk purchased by such handler in each class from other handlers and then apportion the milk purchased by him from producers or an association of producers to each class according to the ratio which his remaining total sales in each class bear to his remaining total sales in all classes.

ARTICLE VII -- DETERMINATION OF UNIFORM PRICES TO PRODUCERS

Section 1. Computation of Value of Milk for Each Handler. For each delivery period the Market Administrator shall compute, subject to the

provisions of article VI, the value of milk sold or used by each handler, which was not purchased from other handlers, by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to sections 2, 3 and 4 of article IV and (b) adding together the resulting value of each class.

Sec. 2. Computation and Announcement of Uniform Prices. The Market Administrator shall compute and announce the uniform prices per hundredweight of milk delivered during each delivery period in the following manner:

1. Combine into one total the respective values of milk, computed pursuant to section 1 of this article, for each handler who made the report as required by section 1 of article V for such delivery period and who made the payments required by article VIII for milk received during the delivery period next preceding but one;

2. Add the total net amount of the differentials applicable pursuant to section 4 of article VIII;

3. Subtract the total amount to be paid to producers pursuant to paragraphs 2, 3, and 4 of section 1 of article VIII;

4. Divide by the total quantity of milk which is included in these computations and which is not in excess of the total of the respective bases of producers whose farms are located more than forty (40) miles from the State House in Boston;

5. Subtract not less than four cents (4¢) nor more than five cents (5¢) for the purpose of retaining a cash balance in connection with the payments set forth in paragraph 5 of section 1 of article VIII;

6. Add an amount which will distribute, pursuant to section 3 of this article, any cash balance available; and

7. On or before the 12th day after the end of each delivery period mail to all handlers and publicly announce (a) such of these computations as do not disclose information confidential pursuant to section 8d of the Act, (b) the blended price per hundredweight which is the result of these computations and (c) the Class II price.

Sec. 3. Distribution of Cash Balance. For each delivery period, the Market Administrator shall distribute, by an appropriate addition pursuant to section 2 of this article, the cash balance, if any, in his hands arising out of payments from handlers (to meet obligations arising out of paragraph 5 of section 1 of article VIII) during the delivery period next preceding but one.

Sec. 4. Base Rating. The base of each producer shall be a quantity of milk for each delivery period calculated in the following manner: Multiply the figure determined pursuant to the applicable paragraph of section 5 or section 6 of this article by the number of days on which such producer delivered milk during such delivery period.

Sec. 5. Bases through March 31, 1937. For calculating, pursuant to section 4 of this article, bases to be in effect up to and including March 31, 1937, the Market Administrator shall determine with respect to milk, or the milk equivalent of cream, delivered in bulk to processors from the farm operated by such producer;

1. In the case of each producer for whom the necessary information is submitted to the Market Administrator with respect to, and from whose farm some milk or cream was delivered in bulk to processors in, each month of one or more of the calendar years 1933, 1934 and the year ending September 30, 1935, that figure which is highest of the following six (6) calculations, or such of these six (6) calculations as are possible from available information: the average delivery per day during the quarter in which the average delivery per day was lowest of the four quarters, respectively, in the calendar year 1933, the calendar year 1934 and the year ending September 30, 1935; or 75 percent of the average delivery per day, respectively, during the calendar year 1933, the calendar year 1934 and the year ending September 30, 1935.

2. In the case of each producer for whom complete information with respect to none of the calendar years 1933, 1934, or the year ending September 30, 1935, is submitted to the Market Administrator, or from whose farm, according to such information, no milk or cream was delivered in bulk to processors in one or more months in each of the calendar years 1933, 1934, and the year ending September 30, 1935, until a satisfactory record of deliveries of milk in twelve consecutive months subsequent to October 1934 becomes available to the Market Administrator, that figure which is 75 percent of the average delivery per day during the consecutive months subsequent to October 1934 and immediately prior to the date hereof, for which a record of milk deliveries is available to the Market Administrator; and, when a satisfactory record of deliveries of milk for twelve consecutive months following October 1934 becomes available to the Market Administrator, that figure which is higher of the two following calculations: 75 percent of the average delivery per day throughout such twelve consecutive months, and the average delivery per day during the three consecutive months of such twelve months in which the average delivery per day was lowest.

3. In the case of each producer who did not regularly sell milk for a period of thirty (30) days prior to the effective date hereof to a handler or to persons within the Marketing Area, that figure which is equal to the same percentage of his average delivery per day during the period when he receives the Class II price pursuant to paragraph 4 of section 1 of article VIII as is the relationship between (a) the total deliveries of all producers not in excess of their respective bases during such period and (b) the total deliveries of all producers.

4. In the case of a producer who, as a tenant or landlord, moves his entire herd from one farm to another farm: the higher of the two figures from which have been calculated, pursuant to section 4 of this article, respectively, (a) the base in effect for the farm from which the herd is moved and (b) the base in effect for the farm to which the herd is moved.

Sec. 6. Bases after March 31, 1937. In calculating, pursuant to section 4 of this article, bases to be in effect after March 31, 1937, the Market Administrator shall determine with respect to milk delivered in bulk to handlers from the farm operated by such producer:

1. In the case of bases which are to be in effect during the period from April 1, 1937 to March 31, 1938, that figure which is the higher of (a) the average delivery per day during the three months of the calendar year 1936 in which deliveries of milk were lowest and (b) sixty (60) percent of the average delivery per day throughout the calendar year 1936; and

2. In the case of bases which are to be in effect for the year beginning April 1, 1938, and for each year thereafter beginning April 1, that figure which is the higher of (a) the average delivery per day during the three months of the next preceding calendar year in which deliveries were lowest and (b) forty (40) percent of the average delivery per day throughout such calendar year.

Sec. 7. Recommendations. Prior to January 1, 1937, the Market Administrator shall recommend to the Secretary amendments to this article which will provide for an equitable method of base rating with respect to those producers for whom, due to fortuitous circumstances or otherwise, the provisions of section 6 of this article would result in bases inequitable as compared with the bases of other producers.

ARTICLE VIII -- PAYMENTS FOR MILK

Section 1. Time and Method of Payment. On or before the 25th day after the end of each delivery period, each handler shall make payments, subject to the butterfat differential set forth in section 3 of this article, for the total value of milk received during such delivery period as required to be computed pursuant to section 1 of article VII, as follows:

1. To producers, except as set forth in paragraph 2 of this section, at the blended price per hundredweight computed pursuant to section 2 of article VII, subject to the differentials set forth in paragraphs 1 and 2 of section 4 of this article, for that quantity of milk delivered by each producer not in excess of the base of such producer;

2. To any producer, whose farm is located within forty (40) miles of the State House in Boston and who delivers milk to such handler at a plant located within forty (40) miles of the State House in Boston, at \$3.30 per hundredweight for that quantity of milk delivered by such producer not in excess of the base of such producer;

3. To producers, at the Class II price, subject to the differential set forth in paragraph 3 of section 4 of this article, for that quantity of milk delivered by each producer in excess of his base;

4. To any producer, who did not regularly sell milk for a period of thirty (30) days prior to the effective date hereof to a handler or to persons within the Marketing Area, at the Class II price, subject to

the differential set forth in paragraph 3 of section 4 of this article, for all the milk delivered by such producer during the period beginning with the first regular delivery of such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month;

5. To producers, through the Market Administrator, by paying to or receiving from the Market Administrator, as the case may be, the amount by which the payments made pursuant to paragraphs 1, 2, 3, and 4 of this section are less than, or exceed, the value of milk as required to be computed for such handler pursuant to section 1 of article VII, as shown in a statement rendered by the Market Administrator on or before the 20th day after the end of such delivery period.

Sec. 2. Errors in Payments. Errors in making any of the payments prescribed in this article shall be corrected not later than the date for making payments next following the determination of such errors.

Sec. 3. Butterfat Differential. If any producer has delivered to any handler during any delivery period milk having an average butterfat content other than 3.7 percent, such handler shall, in making the payments prescribed by paragraphs 1, 2, 3, and 4 of section 1 of this article to such producer, add for each one-tenth of one percent of average butterfat content above 3.7 percent or deduct for each one-tenth of one percent of average butterfat content below 3.7 percent an amount per hundredweight which shall be calculated by the Market Administrator as follows: Divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, subtract 8 cents and divide the result by 10.

Sec. 4. Country Station Differentials. The payments to be made to producers by handlers pursuant to paragraphs 1, 3, and 4 of section 1 of this article shall be subject to differentials as follows:

1. With respect to that quantity of milk which is not in excess of his base, delivered by a producer to a handler's plant located more than forty (40) miles from the State House in Boston, there shall be deducted an amount per hundredweight equal to the freight (considering 85 pounds of milk per can), according to the tariff currently approved by the Interstate Commerce Commission for the transportation, in carload lots of milk in 40-quart cans, to Boston from the zone of location of the handler's plant.

2. With respect to the quantity of milk which is not in excess of his base, delivered by a producer, whose farm is located more than forty (40) miles from the State House in Boston, to a handler's plant located not more than forty (40) miles from the State House in Boston, there shall be added 21 cents per hundredweight.

3. With respect to the quantity of milk delivered by a producer, which is in excess of his base, at the plant of a handler located more

than forty (40) miles from the State House in Boston, there shall be deducted six (6) cents per hundredweight.

Sec. 5. Other Differentials. In making the payments to producers set forth in paragraphs 1, 2, 3, and 4 of section 1 of this article, handlers may make deductions as follows:

1. With respect to all milk delivered by producers to the plant of a handler which is located more than forty (40) miles from the State House in Boston and which is located more than two (2) miles from a railroad shipping point, an amount not greater than 10 cents per hundredweight; provided, that such deduction has been approved and made public by the Market Administrator prior to the time of payment.

2. With respect to milk delivered by producers to a handler's plant which is located more than fourteen (14) miles, but not more than forty (40) miles, from the State House in Boston, an amount equal to 10 cents per hundredweight of Class I milk actually sold or distributed in the Marketing Area from such plant, such total amount to be deducted pro rata on all that milk not in excess of the respective bases of such producers.

ARTICLE IX -- MARKETING SERVICES

Section 1. Deductions for Marketing Services. Except as set forth in section 2, each handler shall deduct five (5) cents per hundredweight from the payments made direct to producers pursuant to article VIII with respect to all milk delivered to such handler during each delivery period by producers and shall pay such deductions to the Market Administrator on or before the 25th day after the end of such delivery period. Such monies shall be expended by the Market Administrator for market information to, and for verification of weights, sampling and testing of milk purchased from, said producers.

Sec. 2. Producers' Cooperative Association. In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", is actually performing, as determined by the Secretary, the services set forth in section 1 of this article, each handler shall make, in lieu of the deductions specified in section 1 of this article, such deductions from the payments to be made direct to such producers, pursuant to article VIII, as are authorized by such producers and, on or before the 25th day after the end of each delivery period, pay over such deductions to the association rendering such service.

ARTICLE X -- EXPENSE OF ADMINISTRATION

Section 1. Payments by Handlers. As his pro rata share of the expense of the administration hereof, each handler, except as set forth in section 1 of article VI, shall, on or before the 25th day after the end of each delivery period, pay to the Market Administrator a sum not exceeding two (2) cents per hundredweight with respect to all milk actually delivered to him during such delivery period by producers or

produced by him, the exact sum to be determined by the Market Administrator subject to review by the Secretary; provided, that each handler, which is a cooperative association of producers, shall pay such pro rata share of expense of administration only on that milk actually received from producers at a plant of such association.

Sec. 2. Suits by Market Administrator. The Market Administrator may maintain a suit in his own name against any handler for the collection of such handler's pro rata share of expense set forth in this article.

ARTICLE XI -- ASSURANCE OF, AND SECURITY FOR, PAYMENTS TO PRODUCERS

Section 1. Amount. Each handler who purchases milk from producers or an association of producers shall, not less than ten (10) days before he is required to make his first payments pursuant to article VIII, furnish to the Market Administrator security, in manner and form satisfactory to the Secretary, payable to the Market Administrator, as assurance of, and security for, payments to be made by such handler pursuant to article VIII, in such amount as will equal the value of the milk purchased by such handler during a period of time equivalent to a delivery period. In the event that the value of milk purchased by such handler for each of three consecutive delivery periods exceeds or is less than the amount of such security, such handler shall increase or decrease the security so that said security shall equal an amount not less than one-third of the total value of milk purchased during said three delivery periods.

Sec. 2. Bonds under State Statute. If, pursuant to a State statute, any handler has furnished the duly constituted authority charged with the duty of administering the applicable provisions of such statute, a bond or other security, a part or all of which is allocable to, and assures any part of, the payments to be made to producers, such handler shall furnish to the Market Administrator, in manner and form satisfactory to the Secretary, security in such amount as will, when added to such allocable and otherwise conditioned amount of security furnished pursuant to such State statute, equal the amount of security required under section 1.

Sec. 3. Payments to Producers. In the event that a handler has failed to make payments, pursuant to article VIII, the Market Administrator shall, within fifteen (15) days after such failure, send by registered mail to each producer who, according to the records of the Market Administrator, has delivered milk to such handler within the period of time involved, and to each association of producers a form for the submittal of sworn proof of claim against such handler. Upon the receipt of such sworn proof of claim, the Market Administrator shall audit such claim and in addition cause to be audited his claim, if any, as Market Administrator against such handler, and thereupon shall determine the total payments due from such handler.

Within fifteen (15) days after the determination of the amount of said payments, the Market Administrator shall make demand by registered letter upon such handler and upon his surety, if any, for the

total payments. If at the expiration of fifteen (15) days from such notice, the handler, or his surety, has not satisfied such claim, the Market Administrator shall, by conversion, sale, suit or otherwise, make available the amount realizable from the security furnished the Market Administrator, and make distribution to the claimant or claimants, including the Market Administrator, in accordance with proofs filed, either ratably or in full, as the case may be.

If the amount realized from the security is more than sufficient to pay all claims, the balance arising therefrom shall be returned to such handler or the surety entitled thereto as the case may be.

Sec. 4. Release. In the event that a handler shall cease to buy milk from producers, or an association of producers, and shall furnish proof of such cessation to the Market Administrator, the Market Administrator shall, within thirty (30) days after receipt of such proof, return the security furnished pursuant to this article.

ARTICLE XII -- RESPONSIBILITY

Section 1. Handlers. The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

ARTICLE XIII -- SEPARABILITY

Section 1. Separability. If any provision of this Order is declared invalid or the applicability hereof to any person, circumstance or thing is held invalid, the validity of the remainder of this Order and the applicability hereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XIV -- DEROGATION

Section 1. Derogation. Nothing contained in this Order is or shall be construed to be in derogation or modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the Act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

ARTICLE XV -- AGENTS

Section 1. Agents. The Secretary may, by a designation in writing, name any person (not a handler) including any officer or employee of the Government, or name any bureau or division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this Order.

ARTICLE XVI -- EFFECTIVE TIME, TERMINATION AND SUSPENSION

Section 1. Effective Time. This Order, or any amendment hereto, shall become effective at such time as the Secretary may declare and

shall continue in force until terminated or suspended, pursuant to section 2 of this article.

Sec. 2. Suspension and Termination. This Order, any provision hereof or any amendment hereto, may be suspended or terminated by the Secretary, as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

Sec. 3. Effect. Unless otherwise provided by the Secretary in the notice of amendment, termination or suspension, of any or all provisions hereof, the amendment, termination or suspension shall not: (a) affect, waive or terminate any right, duty, obligation or liability which shall have arisen or may thereafter arise in connection with any provision of this Order; (b) release or waive any violation of this Order occurring prior to the effective date of such amendment, termination or suspension; or (c) affect or impair any rights or remedies of the Secretary, or of any other person, with respect to any such violation.

Sec. 4. Continuing Power and Duty. If, upon the termination or suspension of this Order, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the Market Administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such termination or suspension; provided, that any such acts required to be performed by the Market Administrator, shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

The Market Administrator, or such other person as the Secretary may designate, (a) shall continue in such capacity until discharged by the Secretary, (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the Market Administrator, or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the Market Administrator or such person pursuant to this Order.

Sec. 5. Liquidation after Termination or Suspension. Upon the termination or suspension of this Order or of any provision hereof, the Market Administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the Market Administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such termination or suspension. Any funds collected pursuant to the provisions of this Order over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the Market Administrator or such person in liquidating

and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

Sec. 6. Determination of Emergency. The Secretary hereby determines that an emergency exists which requires a shorter period of notice than three days, and that the period of notice, with respect to the issuance of this order, which is hereinafter provided, is reasonable under the circumstances.

[SEAL]

NOW, THEREFORE, R. G. Tugwell, the Acting Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, as amended, for the purposes and within the limitations therein contained, and not otherwise, does hereby execute this Order in duplicate under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 7th day of February, 1936, and, pursuant to the provisions hereof, declares this Order to be effective on and after 12:01 A.M., eastern standard time, February 9, 1936.

R. G. Tugwell

Acting Secretary of Agriculture.

